



Attorney's Docket No.: 09/1001 / D210 1066-00

1653

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Barrows et al.
Serial No. : 09/185,732
Filed : November 4, 1998
Title : ADHESIVE SEALANT COMPOSITION

Art Unit : 1653
Examiner : J. Russel

Commissioner for Patents
Washington, D.C. 20231

TECH CENTER 1800/2300

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RESPONSE

In response to the action mailed July 14, 2000, please amend the application as follows:

REMARKS

The following is responsive to the Examiner's action mailed July 14, 2000. Claims 300-440 stand rejected based on the recapture rule. The rejection relies on the following passage from In re Clement:

[I]f the reissue claims is as broad or broader in an aspect germane to a prior art rejection, but narrower in another aspect completely unrelated to the rejection, the recapture rule bars the claims...In re Clement 131 F.3d 1464, 1467 (Fed. Cir. 1997).

First, the rejection reasons that the reissue claims limited to "albumin protein" are broader than claims cancelled in the original prosecution because original claim 2, a dependent claim, which recited "serum albumin protein", was cancelled during the original prosecution.

But the subject matter of claim 2 was not cancelled. The subject matter of original claim 2 was simply incorporated into independent claim 1. At most, it is original claim 1, not limited to any protein, that was cancelled by the amendment.

Second, the rejection notes that the reissue claims are as broad or broader than cancelled claim 1 with regard to protein and crosslinking ascent concentrations and burst strength. The

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

18 January 2001
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